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## **Daily News Clips January 12, 2021 (morning edition)**

### **Administrative**

The Hill: EPA preps for transition of power with unusual change to succession orders

### **Agriculture**

DRG News: EPA announces multi-million-dollar initiative dedicated to sustainable pest control in agriculture

Yall Politics: EPA Administrator talks Yazoo pumps, agriculture pest control in Mississippi visit

### **Emissions**

Power Online: EPA Reduces Regulatory Burden And Emissions From Large Storage Tanks By Allowing Alternative Inspection Method

### **Rules**

Bloomberg: EPA's 'Secret Science' Rule Draws Its First Legal Challenge (1)

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### **EPA preps for transition of power with unusual change to succession orders**

<https://thehill.com/policy/energy-environment/533699-epa-preps-for-transition-of-power-with-new-unusual-succession>

By Rebecca Beitsch

January 11, 2021

EPA preps for transition of power with unusual change to succession orders

A new line of succession established at the Environmental Protection Agency (EPA) leaves an official who was slotted into a newly created high-ranking role just a month ago in charge on Inauguration Day.

Charlotte Bertrand, who until last month worked in EPA's water office, will be the lead official briefing Biden administration nominees and will take over as Administrator Andrew Wheeler steps down.

It's not unusual for agencies to update their succession orders, especially in the waning days of the administration when a transfer of power is imminent.

But some were surprised the handoff would go to a career employee who was so recently elevated.

A mid-December email to staff obtained by InsideEPA announced Bertrand was being promoted, the third such move for her over three years.

“The charitable assumption was they wanted to have someone in a career position in Washington to be able to step in when the transition occurred. It was hard for them to acknowledge because Trump didn’t acknowledge he lost, but clearly someone was thinking about this at EPA,” Stan Meiberg, a former acting deputy administrator for the EPA during the Obama years, said of the agency’s December decision.

The succession order released by the White House late Friday leaves a number of officials in the line of succession above Bertrand, who is 11th on the list to take over in the event of a vacancy.

But because every official above her is a political appointee, Bertrand will be the only one left at the agency on Jan. 20. The Trump administration has asked all political appointees to tender their resignation by Inauguration Day.

“It’s suspicious because they made that position for her. It’s not like she’s always been in some position in the line [of succession]. They made it for her a month ago,” said Gretchen Goldman with the Center for Science and Democracy at the Union of Concerned Scientists.

Meiberg said the order doesn’t concern him, mainly because it contains a provision allowing President-elect Joe Biden to appoint his own acting administrator to lead the agency.

“I think the most important section is one that was carried over from previous orders, Section 2, which allows the president to name someone to become acting administrator and that’s what’s happened in past experiences,” he said.

EPA did not respond to questions about the rationale behind the succession order.

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- 2020 tied for the warmest year recorded, EU says

“This is a transition document laying out acting positions come January 20th once political appointees vacate their current offices. Administrator Wheeler will remain administrator until that date. Charlotte Bertrand will then become acting administrator at noon on January 20th,” an agency spokesman said by email.

Biden plans to nominate Michael Regan to lead the EPA.

Regan, 44, is currently the secretary for North Carolina’s Department of Environmental Quality (DEQ), the state’s EPA equivalent. He previously worked for the EPA under the Clinton and George W. Bush administrations.

## **EPA announces multi-million-dollar initiative dedicated to sustainable pest control in agriculture**

<https://drgnews.com/2021/01/11/epa-announces-multi-million-dollar-initiative-dedicated-to-sustainable-pest-control-in-agriculture/>

By Jody Heemstra

Jan 11, 2021

Today (Jan. 11, 2021) at an event with the Mississippi Farm Bureau, US Environmental Protection Agency Administrator Andrew Wheeler announced a \$2 million dollar initiative that encourages smart, sensible, and sustainable pest control in agriculture.

The initiative, which is an extension of EPA's Pesticide Environmental Stewardship Program (PESP), expects to award grantees up to \$200,000 to implement sustainable pest management practices that align with the agency's goal of providing a healthier environment for all Americans.

"With the extension of this multi-million-dollar initiative, the Trump Administration is providing growers with the additional resources they need to cut down on the environmental risks of both pests and pesticides," said EPA Administrator Andrew Wheeler. "Together, EPA and the agricultural community are building on our already strong foundation of sustainable pest management practices."

This fiscal year, EPA expects to award approximately \$2 million total for agricultural projects that explore innovative practices, technologies, education, and non-regulatory solutions that promote the adoption of integrated pest management (IPM) strategies. Traditional pest control involves the routine application of pesticides. IPM, in contrast, combines biological, cultural, physical and chemical tools in a way that minimizes economic, health and environmental risks.

EPA expects to issue a Request for Applications in January 2021 and applicants will have 45 days to submit their applications. Funding will be available to:

- States or state agencies, territories, city or township governments, and federally recognized tribes.
- Public and private universities and colleges.
- Other public or private nonprofit institutions and 501(c)(3) organizations (PESP membership is not an eligibility requirement to receive funding).

EPA's PESP is guided by the principle that partnership programs complement the standards and decisions established by regulatory and registration actions. This partnership program has previously invested nearly \$4 million annually to support more than 100 successful grants, awards, and collaborative efforts. These efforts have promoted IPM in agriculture, schools, integrated vegetation management on utility rights-of-ways, and shared information on tick management strategies and EPA region-specific projects on sustainable pest management practices.

EPA partners with over 400 organizations through PESP and welcomes more organizations to share the commitment to environmental stewardship where we live, work, play, and farm.

For more information about PESP, visit: [www.epa.gov/pesp](http://www.epa.gov/pesp)

For more information about PESP grants, visit: <https://www.epa.gov/pesp/pesticide-environmental-stewardship-program-grants>

To learn more about IPM, visit: [www.epa.gov/ipm](http://www.epa.gov/ipm).

### **EPA Administrator talks Yazoo pumps, agriculture pest control in Mississippi visit**

<https://yallpolitics.com/2021/01/12/epa-administrator-talks-yazoo-pumps-agriculture-pest-control-in-mississippi-visit/>

By **YallPolitics Staff**

January 12, 2021



On Monday, U.S. Environmental Protection Agency (EPA) Administrator Andrew Wheeler wrapped up his visit to Mississippi announcing a multi-million-dollar grant initiative dedicated to sustainable pest control in agriculture.

While in Mississippi, he also held meetings with elected officials, hosted a press conference on the Yazoo Backwater Area Pumps Project, and signed a Memorandum of Understanding (MOU) with the Mississippi Farm Bureau.

“Finding a long-term solution to the flooding of the Yazoo Backwater Area will allow the impacted community and environment to prosper and grow,” **said EPA Administrator Andrew Wheeler.** “EPA stands ready to continue to work with the US Army Corps, the entire Mississippi congressional delegation and countless local officials and community groups who are committed to finally finishing this important work.”

“Environmental protection is a shared responsibility, and EPA Region 4 enjoys the strong relationships we have built with our partners in Mississippi to advance this goal,” **said EPA Regional Administrator Mary Walker.** “From our support of the U.S. Army Corps of Engineers’ efforts to address devastating flooding to our work with the Mississippi Farm Bureau to advance sustainable agriculture, EPA works diligently every day to ensure a cleaner, healthier environment for all in Mississippi.”

“The proud people of the South Delta are forgotten no more,” **said EPA Chief of Staff and native Mississippian Mandy Gunasekara.** “The collective efforts of this community alongside new information has allowed the US EPA to move the pumps project forward, which once complete will provide overdue protections for the local people, environment, and wildlife.”

Yesterday, Administrator Wheeler participated in a series of meetings with Mississippi Governor Tate Reeves, Lt. Governor Delbert Hosemann, and Mississippi Department of Environmental Quality Director Chris Wells.

At the Yazoo Backwater Area Pumps Project Press Conference, Administrator Wheeler was joined by U.S. Senator Roger Wicker, U.S. Senator Cindy Hyde-Smith, Mississippi Governor Tate Reeves, Mississippi Department of Agriculture and Commerce Commissioner Andy Gipson, U.S. Army Corps of Engineers (Corps) Mississippi Valley Commission Director Colonel Robert Hilliard, Regional Administrator Mary Walker, and EPA Chief of Staff Mandy Gunasekara. Many other state and local officials as well as impacted community representatives attended the conference as well. Prior to the press conference, Administrator Wheeler participated in a briefing with the Corps on the project.

During the press conference, Administrator Wheeler emphasized the agency's continued commitment to working with the Corps as they seek to provide a long-term, viable solution to flooding in the Yazoo Backwater Area. In nine out of the past ten years, the Yazoo Backwater Area has experienced significant flooding that has threatened the lives and property of people in the region. It is also well known that many of these communities in the Mississippi Delta qualify as Environmental Justice Communities, where attention to environmental degradation has been neglected, which in turn has hurt economic investment in these communities for decades.

In May 2020, EPA accepted the Corps request to act as a cooperating agency as the Corps worked to prepare a Supplemental Environmental Impact Statement (SEIS) for the Yazoo Pumps Project. The agency participated in two cooperating agency meetings with the Corps that focused on new data and assessment protocols. As a cooperating agency, EPA submitted comments on the Corps' SEIS on November 30, 2020.

At an event with the Mississippi Farm Bureau, Administrator Wheeler announced a \$2 million dollar initiative that encourages smart, sensible, and sustainable pest control in agriculture. Administrator Wheeler was also joined by U.S. Senator Cindy Hyde-Smith, Mississippi Department of Environmental Quality Director Chris Wells, Mississippi Department of Agriculture and Commerce Commissioner Andy Gipson, Mississippi State Senator Charles Younger, Mississippi Farm Bureau President Mike McCormick, and EPA Regional Administrator Mary Walker for the announcement. The initiative, which is an extension of EPA's Pesticide Environmental Stewardship Program (PESP), expects to award grantees up to \$200,000 to implement sustainable pest management practices that align with the agency's goal of providing a healthier environment for all Americans.

While at Nutrien Ag Solutions in Bolton, Mississippi, EPA also signed a MOU with the Mississippi Farm Bureau to increase collaboration and communications with agriculture stakeholders. This MOU focuses on coordinating education and outreach efforts, while recognizing environmental stewardship activities.

"We are honored to host EPA Administrator Wheeler in Bolton, MS today, and are pleased to be a part of this important announcement. We are truly happy to formally sign this MOU with EPA Region 4. Continuing and enhancing the relationship between Mississippi Farm Bureau Federation and the regional EPA office is key to the success of Mississippi agriculture," **said Mississippi Farm Bureau Federation President Mike McCormick.**

EPA recognizes farmers and ranchers as natural allies in EPA's mission to protect human health and the environment. This is the latest in a series of MOUs meant to continue building partnerships with the agriculture community, while promoting sustainability and reaching for environmental successes in mutually beneficial and critical areas.

This fiscal year, EPA expects to award approximately \$2 million total for agricultural projects that explore innovative practices, technologies, education, and non-regulatory solutions that promote the adoption of integrated pest management (IPM) strategies. Traditional pest control involves the routine application of pesticides. IPM, in contrast, combines biological, cultural, physical and chemical tools in a way that minimizes economic, health and environmental risks.

EPA expects to issue a Request for Applications in January 2021 and applicants will have 45 days to submit their applications. Funding will be available to:

- States or state agencies, territories, city or township governments, and federally recognized tribes.
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- Other public or private nonprofit institutions and 501(c)(3) organizations (PESP membership is not an eligibility requirement to receive funding).

For more information about PESP, visit: [www.epa.gov/pesp](http://www.epa.gov/pesp).

## **EPA Reduces Regulatory Burden And Emissions From Large Storage Tanks By Allowing Alternative Inspection Method**

<https://www.poweronline.com/doc/epa-reduces-regulatory-burden-storage-tanks-by-allowing-alternative-inspection-method-0001>

January 12, 2021

Today, the U.S. Environmental Protection Agency (EPA) expanded the availability of a proven, modern inspection method for finding and correcting air pollution leaks at large liquid storage tanks. EPA's final action offers regulatory flexibility to more than 3,500 petroleum, chemical, and coal products manufacturing facilities and petroleum bulk stations and terminals by allowing an alternate, less cumbersome mode of inspection of liquid storage tanks to show compliance with Clean Air Act regulations.

These amendments offer flexibility to conduct “in-service” rather than out-of-service inspections – potentially saving industry between \$768,000 and \$1,091,000 per year and reducing emissions of volatile organic compounds by as much as 83-tons per year.

“The Trump Administration is delivering on its promise to cut unnecessary regulatory costs while retaining important emissions reductions,” **said EPA Administrator Andrew Wheeler**. “This action shows that environmental protection and a strong domestic energy industry go hand-in-hand.”

These amendments will allow owner/operators of certain large tanks known as Volatile Organic Liquid Storage Vessels to conduct less cumbersome “in-service” inspections of the tanks, without emptying and degassing the storage tank. Since 2018, EPA has received more than 300 requests from facilities seeking permission to conduct in-service inspections to demonstrate compliance with a 1987 Clean Air Act regulation. These one-off requests are time consuming and burdensome for both tank owners and operators and for EPA. The current inspection methods can also be expensive, labor intensive and results in volatile organic compound air emissions and other pollutants from venting and flaring.

Further, EPA understands that in recent months inspecting these large tanks, while empty of product and vapors, has become more challenging because there is a significant increase in the need for liquid storage capacity (particularly crude and petroleum products), due to slower consumer demand.

## **Background**

In 1987, EPA promulgated New Source Performance Standards (NSPS) subpart Kb which applies to large storage tanks that store volatile organic liquids across a variety of industries, such as petroleum refineries, chemical plants, and portions of the oil and gas industry. To reduce volatile organic compound emissions from storage vessels, NSPS subpart Kb specifies, for certain tanks in certain circumstances, out of service inspections for holes and tears at least every 10 years, as well as monitoring, recordkeeping, reporting, and other requirements and to ensure compliance with the standards. In 1999, EPA finalized the National Emission Standards for Hazardous Air Pollutants (NESHAP) subpart WW for storage vessels (tanks) that, in certain circumstances, allow for less cumbersome in-service inspections, without emptying and degassing the storage tank.

For more information, Visit including a pre-publication version of the *Federal Register* notice and related fact sheet, is available at <https://www.epa.gov/stationary-sources-air-pollution/volatile-organic-liquid-storage-vessels-including-petroleum-storage>

## **EPA’s ‘Secret Science’ Rule Draws Its First Legal Challenge (1)**

<https://news.bloomberglaw.com/environment-and-energy/epas-secret-science-rule-draws-its-initial-legal-challenge?context=search&index=4>

BY [STEPHEN LEE](#)



Jan. 11, 2021

The Environmental Defense Fund on Monday became the first to take aim at the EPA's final rule that sets limits on how science can be used in future agency rulemaking.

EDF's complaint, filed in the U.S. District Court for the District of Montana, Great Falls Division, accuses the Environmental Protection Agency of going beyond its statutory authority in finalizing its Strengthening Transparency in Regulatory Science rule.

The EPA's reliance on the Federal Housekeeping Statute as the basis of the rule was unlawful, according to the lawsuit, because the rule imposes substantive restrictions on the agency and isn't just a procedural change.

"The Trump administration's 'Censored Science' rule hamstrings EPA's ability to protect Americans from dangerous pollution by restricting its use of the best available science," Ben Levitan, a senior attorney at EDF, told Bloomberg Law. "Our lawsuit asks the court to block this eleventh-hour threat to Americans' health and safety."

The agency has said the statute gives it the "authority to promulgate housekeeping regulations governing its internal affairs."

But Deepak Gupta of Gupta Wessler PLLC, the lead attorney representing EDF, called the rule "indefensible" and "a transparent attempt to tie the Biden administration's hands."

#### Sharp Break From Practice

EDF also alleges that the EPA unlawfully put the rule into effect immediately on publication in the Federal Register on Jan. 6. Under the Administrative Procedure Act, without a showing of good cause, substantive rules can't take effect until for at least 30 days, the group said.

Environmental groups had planned on asking the EPA to postpone the rule's effective date to give the incoming Biden administration time to reconsider it. That possibility was foreclosed once the rule took effect.

The rule restricts the EPA's ability to use scientific studies that include patients' private medical data when issuing regulations. It represents a sharp break from its decades-old approach to new rules, which relied on those kinds of studies to issue some of its most expansive regulations, including air quality standards for fine particle pollution.

At a Jan. 5 web briefing hosted by the Competitive Enterprise Institute, EPA Administrator Andrew Wheeler said rule promotes "sunshine" in rulemaking and gets judges "out of the habit of making scientific determinations for the agency."

Wheeler also said the rule wouldn't categorically rule out any scientific studies. Any future administrator could still use pivotal studies if the underlying information isn't publicly available, as long as an explanation is provided, he said.

**Cause of Action:** Administrative Procedure Act.

**Relief:** Declaratory and injunctive relief.

**Response:** The EPA didn't immediately return requests for comment.

**Attorneys:** Gupta Wessler PLLC represents the plaintiffs.

The case is: Environmental Defense Fund v. EPA, D. Mont., No. 4:21-cv-00003, complaint filed 1/11/21

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